



US Army Corps
of Engineers
Baltimore District



Maryland Port
Administration

Baltimore Harbor Anchorages and Channels, Maryland

*Integrated Feasibility Report and
Environmental Impact Statement*

Technical Appendices

APPENDIX I - REAL ESTATE PLAN

March 1997

APPENDIX I

REAL ESTATE PLAN (REP)

1. The study area for the Baltimore Harbor Anchorages and Channels, Maryland, feasibility study encompasses the 32 square mile area of the Patapsco River basin and tributaries portion of the existing Baltimore Harbor and Channels Project, Maryland. The reconnaissance report, dated April 1992, documented the results of preliminary evaluations of various harbor improvement plans for the Port of Baltimore.

2. Various project alternatives have been studied pertaining to the anchorages, channels and related dredge material placement sites. The real estate requirements for the selected plan are as follows:

Since 1984, Hart-Miller Island has been used for placement of dredged material removed from Baltimore Harbor and other navigational projects. The State of Maryland purchased the original island area in fee in 1978, and has expanded the island with dredged material. The expanded portions of Hart-Miller Island are located on areas that were originally located below the ordinary high water mark in the Chesapeake Bay, are subject to the Government's right of navigational servitude and were previously under the ownership of the State of Maryland. A portion of the island has now been developed into a state park and another area is scheduled for development into an environmental wetland area. The site was expected to reach its capacity by the year 2000. However, raising the dikes to 44 feet Mean Low Water (MLW) was recently authorized by state legislation, which will allow increased capacity of 20-30 million cubic yards. The placement areas to be raised contain approximately 840 acres.

No other ownership interests are required for the project since they are under navigational servitude. The anchorages and channels are below the ordinary high water mark and underwater. The alternative placement sites, known as the Cox Creek and CSX dredge material placement sites, are also under navigational servitude. In the 1960's, the proposed 133 acre area making up the Cox Creek and CSX dredge material placement sites was constructed by the Corps of Engineers in a portion of the Patapsco River below the ordinary high water mark. Therefore, it remains under navigational servitude. A legal opinion supporting this statement is attached as Exhibit A. The land created at the placement site later became the property of the two adjacent landowners under laws governing ownership of land created through dredging. For their own use and purposes, the Non-Federal Sponsor has purchased a 72 acre portion of the site from CSX Corporation with an additional 134 acres of fast land. The Non-Federal Sponsor is negotiating with the Cox Creek Refinery Company for the purchase of the remaining 61 acres of the placement area and possibly the fast land known as the Cox Creek site.

a. There is no Federal land located within the project area or the placement site.

b. As previously discussed, the anchorages and channels project area, the CSX and Cox Creek dredge material placement sites and portions of Hart-Miller Island are under navigational servitude.

3. No P.L. 91-646 relocations will be necessary for this project.

4. Although no specific real estate acquisition is necessary for this project, the Maryland Port Administration, the Non-Federal Sponsor, does have the necessary experience, manpower and resources to acquire any real estate required for the project. They also have condemnation authority.

5. Since no acquisition is required for the Government to proceed with this project, a Real Estate Baseline Cost Estimate is not necessary. The only portion of the project that is not under navigational servitude is the original land for Hart-Miller Island that was purchased in fee by the State of Maryland in 1978, for \$550,000. It was initially purchased primarily for the Baltimore Harbor and Channels 42 Foot and 50 Foot Projects. The 50 Foot Project Cooperation Agreement provided that the value of the Hart-Miller Island facility would include the acquisition costs of lands, easements and rights-of-way, escalated from the date the costs were incurred to the date construction of the Initial Phase was initiated; the cost of constructing the dikes and appurtenant facilities escalated from the mid-point of construction to the date construction of the Initial Phase was initiated; and the value of settling construction claims, and providing any relocation assistance. The credit to the state was based on the percentage of the Hart-Miller Island containment facility's capacity utilized for construction, operation and maintenance of the Initial Phase, together with the cost of operating and maintaining the Hart-Miller Island facility for the Initial Phase during construction of the Initial Phase.

The Project Cooperation Agreement for the current proposed project only provides credit for the value of the LERRD's and acquisition costs incurred within five years of execution of the Project Cooperation Agreement. Also, the Non-Federal Sponsor may only receive credit for those costs that have not already been credited to a previous Federal project. Therefore, for the Anchorages project, the original cost of \$550,000 for the purchase of Hart-Miller Island is the only amount that may be considered for credit. Due to the crediting provided based on the percentage of capacity used by the 50 Foot project and several other Federal projects that have since utilized Hart-Miller Island as a placement site, it has been determined that the full value of \$550,000 has long since been credited to previous Federal projects. The Non-Federal Sponsor shall receive LERRD credit for the proportionate share of construction costs for preparation of the disposal areas as shown in the project MCACES cost estimate.

6. A real estate map is not required since there is currently no specific real estate acquisition required for implementation of the project.

7. There is no present or anticipated mineral activity in the vicinity of this project.

8. Since the project site and most of the placement areas are subject to the Government's right of navigational servitude, no interests need to be acquired on these properties. The Non-Federal Sponsor was required to purchase fee interest (Estate No. 1) for the original Hart-Miller Island, which it has previously purchased. Since the Non-Federal Sponsor already owns the bottom of the waterways and is also purchasing the Cox Creek and CSX placement sites, for its own future use, operation and maintenance, it will own fee interest (Estate No. 1) in all project lands, described as follows:

The fee simple title to the land, subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

9. A schedule of real estate acquisition activities or milestones is not applicable to this project since project lands and sufficient placement sites are already owned by the Non-Federal Sponsor. The purchase of the Cox Creek placement site is not crucial nor required for project implementation and the exact date of acquisition is unknown.

10. There is one private storm drain owned by Cox Creek Refinery Company draining into the Cox Creek placement site that will have to be relocated by the Non-Federal Sponsor to make the site functional. If the entire Cox Creek property is purchased, the Non-Federal sponsor will own the storm drain. If only the placement site is purchased, the exact location and terms of the storm drain relocation will be negotiated between the Non-Federal Sponsor and Cox Creek Refinery Company, as soon as approval is received from the State of Maryland Department of the Environment. If the Cox Creek placement site is actually utilized for this project as an alternative to Hart-Miller Island, an Attorney's Report of Compensability to determine what, if any, credit is due the Non-Federal Sponsor, will be processed as soon as final details of the relocation are agreed upon. There are no other utilities or facilities to be relocated.

11. Surveys conducted at both the proposed dredge site and the placement sites have shown that there is little potential for HTRW or other environmental contaminants.

12. Since this project has little to no affect on local landowners, there has been little public reaction. The creation of Hart-Miller Island had caused much public contention in the past, but the passing of legislation authorizing the raising of the dikes caused much less local opposition than had been anticipated. Another effect has been the purchase of the CSX site which has been utilized by the local public as an unmanaged wooded recreation area for hunting, off-road vehicles, etc. For this reason, the Non-Federal Sponsor is coordinating with the state natural resource management agencies to discuss development of the 134 non-placement acres of the site as a public recreation area following project implementation. The remaining 72 acres will be utilized as the dredged material placement area.

18 May 1995

MEMORANDUM FOR Attorney Advisor, Special Projects Branch

SUBJECT: Applicability of Navigational Servitude on the Proposed Dredged Material Placement Site for the Baltimore Harbor Anchorages and Channels Feasibility Study and Project, Maryland

1. Enclosed are two maps showing the proposed dredged material placement site for the subject project (Encls 1 & 2). Our research has shown the 133 acre site was constructed in the 1960's by the Corps of Engineers into a portion of the Patapsco River as a placement site for material for another channel deepening project. The adjacent landowners, CSX Corporation and the Cox Creek Refining Company became the owners of the property through rights of accretion. The Maryland Port Administration (MPA), the local sponsor under the project, has purchased the CSX portion of the placement site and is in the process of purchasing the Cox Creek portion, to continue to use the area as a placement site for this project and maintenance of the harbor channels.
2. It is our opinion, that since the placement site was created in the Patapsco River below the ordinary high water mark, that the rights of navigational servitude still pertain as they relate to the United States Government. Although the MPA is now acquiring the site in fee for their own rights and purposes, the Corps of Engineers can again utilize the site as before with no further interest in the land and at no cost. Therefore, MPA will not be granted any credit under the terms of the Project Cooperation Agreement (PCA) for real estate acquisition at the site for this project.
3. Your concurrence with the above opinion is requested.
4. POC for this action is Craig R. Homesley at X4944.

2 Encls
as



SUSAN K. LEWIS
Chief, Civil Projects Support Branch
Real Estate Division

Concurrence 

Nonconcurrence _____



ART STARR
Attorney Advisor

EXHIBIT A